

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

PETER G. SEBALA,

Plaintiff,

vs.

JAMES G. ROCHE, DR.,
Secretary of the Air
Force,

Defendant.

CIVIL
NO.:

04-00404
SPK-LEK

Deposition noticed by: Venetia K. Carpenter-Asui,
Esq.

DEPOSITION OF MICHAEL OYADOMARI

Taken on behalf of Plaintiff at the law office of
Venetia Carpenter-Asui, Esq., 820 Mililani Street,
Suite 812, Honolulu, Hawaii, commencing at 1:30
p.m. on November 8, 2005.

REPORTED BY: LYNANN NICELY, RPR/RMR/CSR #354

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A P P E A R A N C E S

For the Plaintiff:

VENETIA K. CARPENTER-ASUI, ESQ.
820 Mililani Street, Suite 812
Honolulu, Hawaii 96813

For the Defendant:

CAPTAIN ERIN BREE WIRTANEN, ESQ.
United States Air Force
1501 Wilson Boulevard
7th floor
Arlington, Virginia 22209

ALSO PRESENT:

Peter Sebala

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(Pursuant to Rule 14 of the Rules Governing Court
Reporting in Hawaii, the Reporter's Disclosure was
made and is attached hereto.)

* * *

MICHAEL OYADOMARI,
called as a witness by and on behalf of Plaintiff,
having been sworn to tell the truth, the whole
truth and nothing but the truth, was examined and
testified as follows:

E X A M I N A T I O N

BY MS. CARPENTER-ASUI:

Q. Please state your full name for the record.

A. Michael C. Oyadomari.

Q. Your middle name is C?

A. C.

Q. How do you spell that?

A. Carl, C-A-R-L.

Q. What is your date of birth?

A. 1/3/54.

Q. And so today you are -- what is your age, fifty-one?

A. Fifty-one, yes.

Q. From January '02 to January '03, where were you employed?

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A. Hickam Air Force Base.

Q. What was your hire date?

A. What was my --

Q. Hire date.

A. May 5th, 1986 -- '85.

Q. '85?

A. Yeah. No, '86, '86. I was there one
year without pay, came in through vocational rehab.
'86 I was hired there, May 5th, 1986.

Q. So 5/5/85 to 5/5/86, no pay.

A. Yeah.

Q. And then?

A. May 5, 1986, I was hired.

Q. From January '02 to January '03, what was your job title?

A. It was automotive worker, yeah, in maintenance.

Q. In maintenance?

A. Yeah. 15 LRS/VM.

Q. And where were you assigned to work from 1/02 to 1/03, where on Hickam Air Force Base?

A. Transportation.

Q. What does that mean?

A. 15 LRS.

Q. From 1/02 to 1/03, what were your job

2 (Pages 2 to 5)

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1 duties as an automotive worker at Hickam Air Force
2 Base?

3 A. Repairing vehicles, gas and diesel.

4 Q. And in January '02, how many years of
5 work experience even before you were hired, by
6 5/5/85, total, did you have working in that field?

7 A. Over ten years.

8 Q. Okay. Before you got hired on 5/5/85 for
9 no pay, did you have any other work experience?

10 A. Yeah, carpentry, yeah.

11 Q. Carpentry. Not automotive?

12 A. Mason.

13 Q. Were you aware that in January '02,
14 Mr. Peter Sebala had over 27 years of experience
15 working as a tire shop preventative maintenance
16 worker for Oahu Sugar Company?

17 A. Yeah. I knew some people that knew him
18 from Oahu Sugar, said he worked there a long time,
19 about 27 or 28 years.

20 Q. Do you recall that in January '02 through
21 January '03, Mr. Sebala worked as a mobile
22 equipment servicer?

23 A. In the tire shop, yeah?

24 Q. Yes.

25 A. Uh-huh.

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1 Q. Is that a yes?

2 A. Yeah.

3 Q. You have to say yes or no out loud so she
4 can put it on the record. And when I'm talking,
5 you have to stop -- or your lawyer talks, you have
6 to stop, because she can only take one person at a
7 time.

8 From January '02 to January '03, did you
9 have an opportunity to observe Mr. Sebala
10 performing his work duties?

11 A. Yes.

12 Q. In fact, you were Mr. Sebala's trainer
13 initially?

14 A. Actually, I don't know if I had to train
15 him. He was already -- he went in the tire shop
16 and he just worked his own. I observed him while
17 he worked.

18 Q. Was there something that he didn't know
19 how to do that you had to show him, you know, this
20 is how you change a tire, this is how you fix a
21 tire, this is how you --

22 A. No.

23 Q. Did he ever come to you and say I don't
24 know how to do some of my job duties, can you show
25 me how to do them?

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1 A. Not to me.

2 Q. Did someone ask you to train him?

3 A. Randy told me go in there and observe
4 him, see how he do.

5 Q. You said observe him?

6 A. Yeah. He said the guy is experts
7 already, Randy knew he was experts from Oahu Sugar.
8 But he said just go in there and watch how he run
9 the tire machines and all that.

10 Q. And then did you report back to Randy and
11 give him, you know, your opinion of Mr. Sebala --

12 A. Randy come to me and asked me how the guy
13 doing. Said he doing good, no have to train him,
14 no have to do nothing.

15 Q. Did you ever observe Mr. Sebala asking
16 others at work how to do his job?

17 A. No.

18 Q. Did you ever observe Mr. Sebala asking
19 the supervisors how to perform his job duties?

20 A. No.

21 Q. Did anybody ever say Mr. Sebala didn't
22 know how to perform his job duties?

23 A. No.

24 Q. Did you ever hear anything good or
25 positive about Mr. Sebala's performance of his work

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1 duties?

2 A. All good, all positive.

3 Q. Do you recall anyone saying anything
4 about his work?

5 A. No.

6 Q. Did you ever hear Supervisor Nunes say
7 that Mr. Sebala was too old for his job?

8 A. Yes.

9 Q. What did he say?

10 A. He told Mr. Soares, Ace, came up and told
11 me that, oh, Randy hired him because -- hired Chris
12 because he was younger and he have a family, he's
13 married. And then a couple -- when they hired
14 Chris, when he came on board, then I asked Randy --
15 Randy came up to me and he said, oh, Sebala went
16 call me up and threaten me. And I asked him what
17 do you mean. I asked him what he mean. Said he
18 going to fire 'em, he's not finished with you, he's
19 not finished with him. Said that's not no threat.
20 Said, you know, I don't know why I told him why
21 Peter wasn't, you know, picked for the position.
22 He said that guy was experienced. The other guy no
23 experience. You know. He was in the Army and he
24 said he was a tanker. Operating tanks.

25 So I told him, I said what are you doing

3 (Pages 6 to 9)

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1 changing the iron wheels. So Randy said the guy is
2 qualified and he has experience in that. But when
3 Chris came on board, he had to be trained by me and
4 Ace -- Ace and I. Until Mr. Vargas complained to
5 Randy about cannot concentrate on -- too many
6 people training him in the tire shop. So Randy
7 told me stay away from the tire shop. Said Ace
8 never know the tire machine, so Ace came and asked
9 me how you operate the tire machine, so I went in
10 there and showed them two guys how to operate the
11 tire machine. Because Mr. Sebala had no problem
12 operating that.

13 Q. Do you remember approximately when it was
14 that Ace came up and told you that Randy hired
15 Chris because he was younger and had a family?

16 A. I don't know when, but that was -- Chris
17 got hired. Mr. Vargas. I don't know exact date.

18 Q. When Chris got hired for the permanent
19 mobile equipment --

20 A. Permanent, right, that was a temporary
21 position which was going to turn into a permanent
22 position.

23 Q. Do you know what prompted Ace to say that
24 -- make that statement? Were you guys having a
25 discussion or just said out of the blue?

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1 A. No, he said he asked -- I tell him well,
2 who told you that. He said Randy. He asked him
3 who got the position. That's what he told him.
4 Told Ace. How come you didn't hire Vargas? Says
5 younger, married, and he got a family.

6 Q. And then Randy said Sebala called me up
7 and threatened me.

8 A. Yeah.

9 Q. And you asked what do you mean.

10 A. I asked him what do you mean he
11 threatened you. He said oh, he's not -- he just
12 say he's not finished, he's going to file.

13 Q. What does that mean, he's going to file?

14 A. I guess -- I don't know, I guess file
15 whatever, discrimination or what. So I told Randy
16 it's not threatening. Randy put it in his words
17 like -- Randy told everybody over there in the
18 shop, Mr. Sebala threaten him. Told everybody.

19 Q. Who did he tell?

20 A. Robin, me, Ace, and Darryl Lim.

21 Q. Anyone else?

22 A. No. That's the only guys was working
23 with us. And -- yeah, Allen McAngus.

24 Q. Did he tell you in a meeting or --

25 A. No, just walk around the place and, you

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1 know, came up to me and he was telling everybody --
2 came up -- my stall is -- I felt like, hey, that's
3 confidential, that kind of stuff like that, not
4 supposed to be speaking out, that's
5 confidentiality. Whatever happen to a coworker or
6 an employee. It's a supervisor. Supposed to zip
7 your lips.

8 Q. Did he seem upset when he was talking
9 about this matter, saying he was going to file?

10 A. Randy's always upset.

11 Q. What does that mean?

12 A. He is not an easy person to work with.
13 So I don't know if he was upset because he's always
14 like that.

15 Q. And how did you learn that Mr. Vargas was
16 in the Army as a tanker?

17 A. He talked about it. He told everybody he
18 had military experience.

19 Q. Did Mr. Vargas say that he had tire shop
20 experience?

21 A. Not to me.

22 Q. And initially you said you helped train
23 Mr. Vargas?

24 A. Yeah, until Randy -- until Mr. Nunes told
25 me stay away from the shop while Ace going to be

Page 13

1 training him.

2 Q. Do you know why he was going to have Ace
3 train him and you testified Ace didn't know how to
4 operate the tire machine?

5 A. Ace approached me and asked me if I can
6 help him, you know, with the tire machine with
7 Chris helping Chris because Ace didn't know how to
8 operate the machine. So I said no problem, I went
9 in there and I helped him. But I don't know. So
10 Vargas went go see Mr. Nunes and says he cannot
11 concentrate, too much elbows around, like teachers.
12 So Mr. Nunes told me for stay away from the tire
13 shop. And then Ace going to be training Chris. I
14 don't know if Ace signed him off, qualified for
15 tire shop. A couple times Ace was telling me that
16 Mr. Vargas had hard time, you know, working on the
17 tires and all that, split rims and all that.

18 Q. What did Ace say about that again?

19 A. Chris has hard time working on that, you
20 know, to learn. He has hard time working on the
21 tires. I don't know if he signed him off. Because
22 if you're a trainer, you're supposed to sign them
23 off, let the supervisor know, okay, this guy did
24 good.

25 Q. So did he say what he had a hard time

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1 learning about the tires?
 2 A. Split rims.
 3 Q. What does that mean?
 4 A. Split rims is the kind you take apart,
 5 you know, the rims you take apart, all metal, and
 6 put it back together.
 7 Q. And what was he having trouble doing,
 8 taking it apart or putting it together?
 9 A. Taking them apart and putting them
 10 together.
 11 Q. Did Ace say anything else about problems
 12 Chris was having learning the job?
 13 A. Well, that's about it.
 14 Q. Did Ace seem frustrated about how the
 15 training was going?
 16 A. Sometime, yeah, Ace come up and tell me
 17 that this guy no listen, no like train 'em. He get
 18 angry. Mr. Vargas get angry. Tires is
 19 frustrating.
 20 Q. Mr. Vargas got angry --
 21 A. That's what Ace said. I could see it,
 22 too, from across the way. I was working. You
 23 could see the guy got frustrated, you know, working
 24 on tires. I guess after a while once you learn,
 25 you know, took 'em quite a while.

Page 15

1 Q. How long did it take him?
 2 A. Maybe about a month.
 3 Q. Is that a long time?
 4 A. Yeah.
 5 Q. What could you see that made you think
 6 that Mr. Vargas was frustrated?
 7 A. By his face and he's coming up to me and
 8 telling me Mr. Vargas get angry.
 9 Q. Did he ever slam his tools around or --
 10 A. No, I don't see that.
 11 Q. So his face looked what, frustrated?
 12 A. Looked angry. Angry.
 13 Q. What's so hard about that? I don't know
 14 what that means, split rims. Why is it hard to do?
 15 A. Because the tire machine, you know from
 16 what I see, the tire machine is not easy to operate
 17 and it's dangerous, got to operate it slow, you can
 18 get hurt. That's what probably was getting
 19 frustrating to him and learning -- the Air Force
 20 has all different kind of rims, yeah, tires.
 21 Q. Can you explain what a tire machine is?
 22 A. Mounter and dismounter.
 23 Q. What does it look like?
 24 A. Metal, a piece of metal, I mean, big
 25 machine.

Page 16

1 Q. How big?
 2 A. Probably about three feet high, probably
 3 five by five.
 4 Q. Five deep and five wide?
 5 A. Yeah, two prongs that open up and holds
 6 the rim on display that bust the bead and push the
 7 tires off.
 8 Q. Could you say that part again? Three
 9 prongs that open up and close the rim?
 10 A. Right, that holds the rim.
 11 Q. Holds the rim.
 12 A. Yeah, in place. And it busts -- this
 13 dish plate --
 14 Q. What to the plate?
 15 A. Dish plate. Goes in and busts the bead
 16 where you can take off the lock ring and then
 17 dismount the tire.
 18 Q. And how long should it take to take the
 19 tire off and put it back on normally?
 20 A. It varies. Everybody is, you know.
 21 Q. One hour? One day?
 22 A. I mean, once you learn 'em, you can do
 23 fast, you know.
 24 Q. How fast is fast?
 25 A. Less than ten minutes, ten minutes, mount

Page 17

1 and dismount.
 2 Q. And if you're having trouble, how long
 3 could it take?
 4 A. Take you long time if you don't know how
 5 to operate the machine.
 6 Q. Well, one day?
 7 A. No, not really. Probably half a day.
 8 Couple hours. Sometimes it's tubeless and it's
 9 hard to sit the bead when you try to air it up.
 10 Q. Okay. And you showed Mr. Vargas and Mr.
 11 Soares how to use that machine?
 12 A. Yeah. I just went in there and explained
 13 and show 'em like that probably about ten minutes,
 14 15 minutes.
 15 Q. And --
 16 A. I showed -- actually I showed Ace and I
 17 told Mr. Vargas watch and learn, observe, take your
 18 time, safety first, you know, work slow, no rush,
 19 you can get hurt.
 20 Q. And how can you get hurt from that
 21 machine?
 22 A. Dismounting 'em. Dismounting the tire.
 23 It can fly off, hit you, or explode.
 24 Q. The tire can fly off.
 25 A. Yeah. The ring. The tire machine has so

5 (Pages 14 to 17)

Page 18

1 much pressure pushing off tires, it can fly right
2 off of the fork.

3 Q. Okay. We'll mark this as Exhibit 1. Can
4 you describe a tire machine, just draw it clearly,
5 okay, because it's going to be an exhibit that
6 we'll use later, so draw nicely, yeah.

7 A. Nicely.

8 Q. Draw big. Use the whole paper. And
9 label each piece.

10 (Deposition Exhibit Number 1 was
11 marked for identification.)

12 CAPT. WIRTANEN: Ms. Carpenter, I
13 don't understand the relevance of this line of
14 questioning.

15 MS. CARPENTER-ASUI: For the record,
16 the relevance is that a 20-year-old male was hired
17 in the tire shop to work on tires and Mr. Sebalá
18 had 27 years of working in a tire shop and this
19 gentleman is testifying that Mr. Vargas, the
20 20-year-old who was hired for the position, didn't
21 even know how to operate the tire machine. That's
22 the relevance.

23 CAPT. WIRTANEN: The witness has
24 given testimony to that end, if you will. The
25 drawing of the tire machine, I don't understand the

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1 relevance of that.

2 MS. CARPENTER-ASUI: The drawing of
3 the tire machine will help me understand what
4 exactly is happening --

5 THE DEPONENT: I cannot draw the
6 machine that good, but it's like a square stuff
7 with an arm --

8 MS. CARPENTER-ASUI: It will help me
9 to understand what he's talking about because I
10 have no clue what he's testifying about here, so
11 this is simply to aid me.

12 BY MS. CARPENTER-ASUI:

13 Q. Okay. Could you label each of the parts?
14 Is the tire taken off the truck and then put on to
15 this machine, or is the tire still on the truck and
16 the machine brought to the tire?

17 A. No, you take the tire off the vehicle and
18 then you dismount it and mount it on that machine.

19 Q. Can you write at the top of the page
20 "tire machine"? Is that the actual name of it?

21 A. Uh-huh.

22 Q. Is that a yes?

23 A. Yes.

24 Q. And how much, if you know, approximately
25 how much does this tire machine weigh?

Page 20

1 A. Oh, probably about 600, 800 pounds.

2 Q. Okay. And it's made of what?

3 A. Metal.

4 Q. Okay. And you have labelled the
5 different parts of your drawing and what is -- I'm
6 pointing to something you labeled arm. What does
7 that do?

8 A. Arm, that's the arm that lifts the tire
9 up and down, holds the tire in place.

10 Q. So you take the tire and you put it on to
11 the arm?

12 A. Right.

13 Q. And then you labeled clamp holder. What
14 does that mean?

15 A. That's the one that holds the inside of
16 the rim, holds the tire, the rim, in place.

17 Q. And then you have another word "tire."
18 What would that be?

19 A. That's the tire in the machine.

20 Q. Is that the rubber part?

21 A. Yes.

22 Q. With the rim attached?

23 A. Yeah, the rim attached.

24 Q. And at the bottom you have a label "foot
25 switch," what is that?

Page 21

1 A. That's the foot switch and then --

2 Q. What is that?

3 A. And a hand switch. That's what operates
4 the arm for turn the tire. This the dish that
5 dismount and mount the tire.

6 Q. What is this?

7 A. That's the dish that --

8 Q. Dish?

9 A. The dish plate that --

10 Q. Dish or disc?

11 A. Dish.

12 Q. Can you write "dish"? And what does the
13 dish do?

14 A. Mount and dismount the tire.

15 Q. Dish plate.

16 A. Yeah.

17 Q. And what did you write at the bottom,
18 dismount and mount floor? What does that mean?

19 A. What is that, floor plan?

20 Q. No, what does dismount and mount --

21 A. That's what the dish does. It mounts the
22 tire and dismounts it.

23 Q. Your other label here, what does that
24 say?

25 A. That's the foundation of the machine, the

6 (Pages 18 to 21)

Page 22

1 plan, the bottom plan.
 2 Q. The floor plan?
 3 A. Floor plan.
 4 Q. And that is the what?
 5 A. Connected to the machine that levels out
 6 the machine, keep the arm in place.
 7 Q. When you showed Ace and Mr. Vargas how to
 8 use that tire machine, did you know whether that
 9 was the first time Mr. Vargas had used a tire
 10 machine, did he say to you anything about --
 11 A. No, he no say.
 12 CAPT. WIRTANEN: Objection; compound
 13 question.
 14 A. Sebala never said.
 15 Q. He did not say this is the first time I'm
 16 being shown how to use a tire machine --
 17 A. He never tell me that.
 18 Q. Did anything that occurred while you were
 19 showing him how to use a tire machine indicate to
 20 you whether he did already know how or did not know
 21 how to use the tire machine?
 22 A. No, nothing occurred. But I knew already
 23 that he didn't know how to operate the machine.
 24 Q. And how do you know that?
 25 A. Because Ace didn't know how to and he

Page 23

1 asked me. So after that, he start training him.
 2 So they play around with the machine to get used to
 3 the machine.
 4 Q. What does that mean, played around with
 5 the machine to get used to it?
 6 A. The switches, see how it operates, the
 7 arm how it lifts up and how the dish go. You know,
 8 before you mount, before you put a tire on the
 9 machine, you get familiar with the machine.
 10 Q. And were you -- you saw this happen?
 11 A. Yeah.
 12 Q. Did you see Mr. Vargas operating the
 13 machine to see how it -- see the switches, how they
 14 operate?
 15 A. Yeah.
 16 Q. Did he say anything?
 17 A. No.
 18 Q. Did he ask you any questions, like what
 19 does this switch do --
 20 A. Not to me.
 21 Q. No questions?
 22 A. Maybe to Ace. I just went in there and
 23 show -- Ace asked me.
 24 Q. Did it appear to you that Mr. Vargas had
 25 used this machine before?

Page 24

1 A. No.
 2 Q. And when you said he was operating the
 3 switches to see what they would do, what --
 4 A. Get familiar with the machine, how each
 5 part move.
 6 Q. Did Mr. Vargas say I don't need to -- I
 7 already know how to use this machine?
 8 A. No, not to me. Ace was the trainer. Ace
 9 was in there pretty long training Mr. Vargas.
 10 Q. How long is pretty long?
 11 A. Maybe about a month, maybe more.
 12 Q. And you -- did you observe Mr. Sebala
 13 operating the tire machine?
 14 A. Yeah.
 15 Q. And --
 16 A. From my stall, yeah.
 17 Q. Did he ask you how to operate the tire
 18 machine?
 19 A. No.
 20 Q. Did you see him from the very start ever
 21 using that tire machine, start of his employment?
 22 A. Yeah, seen him operating the machine. No
 23 problem.
 24 Q. And did you tell him, you know, I'm
 25 supposed to be overseeing your training --

Page 25

1 A. No.
 2 Q. -- see me if you have questions?
 3 A. Nobody told me to train him. Mr. Sebala?
 4 Nobody told me to train him. But Randy just said
 5 just observe, watch him, you know, how the guy
 6 work. He didn't tell me to train the guy because,
 7 you know, I figure that guy had experience from
 8 Oahu Sugar.
 9 Q. Did you see anybody training him for the
 10 first month, standing by him, saying do it like
 11 this, not like that, this way?
 12 A. No.
 13 Q. But Mr. Vargas did have training for one
 14 month from what you observed?
 15 A. By Mr. Soares, yes, Ace.
 16 Q. But first you had to train Mr. Soares on
 17 how to use the machine.
 18 A. I just showed him -- Mr. Soares didn't
 19 know how to operate, so he asked me, came over. So
 20 I said yeah, okay, I'll go in there and show you
 21 what switch, you know, which switch works for what
 22 part of the machine. So I went there. It only
 23 took me about five, ten minutes and that's it. I
 24 told him you got to play with the machine, you
 25 guys, and get familiar with it, you know.

7 (Pages 22 to 25)

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1 Q. And how is it you knew how to use this
2 tire machine?

3 A. Me?

4 Q. Yes.

5 A. I worked in the tire shop almost five
6 years. I was the first to operate that machine
7 when that machine came in.

8 Q. And do you recall what year it came in?

9 A. No. I don't remember.

10 Q. And who taught you how to use it?

11 A. The guys that brought 'em in.

12 Q. The manufacturer?

13 A. Yeah. They just told me just, you know,
14 this switch is for that, this is how this thing go
15 and operate. Just play with the machine, the
16 switches, and get familiar with it. Just take your
17 time, no rush, because the machine, you can get
18 hurt on the machine, there is a lot of torque on
19 the machine, a lot of power.

20 Q. What is torque?

21 A. Power. PSI pressure.

22 Q. Did anyone ever get injured on the tire
23 machine that you're aware of?

24 A. No, not that I know of, no. I don't
25 think so.

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1 Q. Did you ever hear anyone else talking
2 about age, somebody's young or somebody's old or
3 too young or too old or --

4 A. No.

5 Q. Mr. Nunes or Mr. Peris?

6 A. No. Only Mr. Nunes and Mr. Soares.

7 Q. Are you familiar with Mr. Vargas's
8 father-in-law that works there?

9 A. Oh, yes. Mr. Padua. Rick Padua.

10 Q. And how do you know Mr. Padua?

11 A. Used to work in maintenance control when
12 he first came in.

13 Q. As a what?

14 A. Just like a service writer, somebody that
15 calls in the vehicle for scheduled maintenance,
16 schedule the vehicles for maintenance.

17 Q. And is that the position he holds today?

18 A. No, he's not here now. He went some
19 place. He got promoted. He was a supervisor. He
20 went over to the other side, the driver's side. He
21 left. I don't know where he went. Went with his
22 wife some place.

23 Q. And how did you know that that was Chris
24 Vargas's father-in-law?

25 A. People talk about it and then I asked

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1 Mr. Vargas and he said yeah, my father-in-law.

2 Q. Do you know if Mr. Padua assisted Mr.
3 Vargas in getting the job in any way?

4 A. I heard people talking about it, you
5 know.

6 Q. What did you hear?

7 A. That Mr. Padua went over there and talked
8 to Randy about, you know, helping out his
9 son-in-law. I heard that, you know, that was just
10 a rumor, you know. Nobody verbally told me that.
11 You know how rumors go around.

12 Q. And was that when Mr. Vargas was first
13 hired as a sandblaster or was that later when
14 Mr. Vargas was hired as the permanent maintenance
15 vehicle servicer?

16 A. Permanent tire mounter, yeah.

17 Q. Do you remember who said that rumor?

18 A. I don't know. Randy and them was talking
19 about that.

20 Q. Do you remember who?

21 A. No.

22 Q. Did Mr. Randy Nunes ever say that, that
23 Mr. Padua asked him for a favor?

24 A. No.

25 Q. Did you observe any other areas where

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1 Mr. Vargas needed help or training on how to
2 perform tire related work?

3 A. No.

4 Q. Just the tire machine?

5 A. Yeah. And mounting and taking tires off
6 vehicles and all that -- certain vehicles. Some
7 are hard.

8 Q. Do you remember which ones he had
9 difficulty with?

10 A. Grader.

11 Q. What was that?

12 A. Grader.

13 Q. What's that?

14 A. Bigger machines. Just put down "bigger
15 machines." Bigger tires.

16 Q. A grader. What other machines?

17 A. Just bigger machines. MB-2s, MB-3.

18 Q. Was that because they were bigger or more
19 complicated or what would be the reason?

20 A. No. He looked inexperienced.

21 Q. And can you describe how he looked
22 inexperienced? What does that mean?

23 A. Just observing him, you can tell when
24 somebody is experienced or inexperienced. Because
25 I operate the machine and I worked the tire shop

8 (Pages 26 to 29)

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1 before, you know.
 2 Q. For five years?
 3 A. So right off the bat you can watch
 4 somebody and you know that guy is inexperienced.
 5 Q. Did you say anything to Randy about
 6 Mr. Vargas being inexperienced?
 7 A. No. No. Because I wasn't no trainer,
 8 no. Whatever happened probably was between Ace --
 9 Mr. Soares and Mr. Nunes or whatever. Mr. Soares
 10 was the trainer, not me.
 11 Q. Mr. Soares and Mr. Nunes, is there any
 12 kind of family relationship between them? Are they
 13 related somehow?
 14 A. No. No relation. But I know Randy was
 15 his best man at his wedding.
 16 Q. Oh, is that true? What year was that?
 17 A. I don't know what year he got married.
 18 Ace told me that.
 19 Q. Was that when Mr. Soares was working
 20 there that this occurred?
 21 A. Yeah. Yes.
 22 Q. You didn't go to the wedding?
 23 A. No, I wasn't working that area at that
 24 time.
 25 Q. And he said that Randy was his best man?

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1 A. Yeah.
 2 Q. How do you know which Randy he was
 3 talking about?
 4 A. There was only one Randy there.
 5 Q. Do you know of them doing anything
 6 together like going bowling or going drinking or --
 7 A. No.
 8 Q. -- any kind of --
 9 A. Both of them don't drink, no.
 10 Q. Social activities, fishing together?
 11 A. No.
 12 Q. You're not aware of --
 13 A. No.
 14 Q. Do they -- in your observation, do they
 15 appear to be closer than others in the workplace
 16 like, for example, in comparison to you and
 17 Mr. Nunes or Mr. Sebala and --
 18 A. Not that I notice, no.
 19 Q. And from where you were working, you're
 20 performing your duties as a mechanic automobile
 21 worker, you have a clear line of vision to the tire
 22 machine and Mr. --
 23 A. Oh, yeah, my stall is right in line,
 24 maybe like about -- about 15, 20 yards away from my
 25 stall. I have a clear view of the machine and

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1 who's operating everything in there, whoever is
 2 working there in the tire shop.
 3 Q. That tire machine is only operated by the
 4 vehicle maintenance servicers?
 5 A. Whoever is training or whoever is
 6 qualified to operate the machine.
 7 Q. So is there a certificate or
 8 qualification paper that you receive once you learn
 9 how to operate that machine?
 10 A. I don't know how Mr. Nunes do it, but if
 11 you get trained, you have to be signed off by
 12 whoever trained you.
 13 Q. So the trainer must sign off on what?
 14 A. Sign off the individual that was trained,
 15 saying that he's capable of operating the machine
 16 with no help, no problem.
 17 Q. Do you know what the name of this piece
 18 of paper is called?
 19 A. I don't know. I don't know.
 20 Q. Did you ever --
 21 A. Only what Mr. Soares told me that, you
 22 know, I don't know, he said he don't know if you
 23 sign this guy off because, you know, he get angry
 24 at the machine and he get mad at Ace, angry at Ace.
 25 So I don't know what kind of paper he talking about

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1 sign off. That's all Mr. Soares said, sign
 2 off. I guess you got to be qualified on the
 3 machine like I was, you know, to operate that. Not
 4 just anybody can go in there and operate the
 5 machine.
 6 Q. How many times did Mr. Soares say he
 7 didn't know if he wanted --
 8 A. He told me one time.
 9 Q. If he should sign him off?
 10 A. Only one time he told me that.
 11 Q. Did you ever train anyone?
 12 A. Who, me?
 13 Q. Yes.
 14 A. Military.
 15 Q. No, there at the tire shop. Did you ever
 16 train anyone?
 17 A. No. Only showed Ace just five or ten
 18 minutes how to operate the machine, that's all. I
 19 didn't train nobody.
 20 MS. CARPENTER-ASUI: I'm going to
 21 ask counsel if that's -- that training sign-off
 22 sheet for Mr. Vargas on the tire machine was ever
 23 produced pursuant to plaintiff's request for
 24 relevant discovery documents.
 25 CAPT. WIRTANEN: All the documents

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1 that I have pertaining to Mr. Vargas's training
2 records have been provided to you.

3 MS. CARPENTER-ASUI: Do you know if
4 that document --

5 CAPT. WIRTANEN: Contains that? I'd
6 have to look at it.

7 MS. CARPENTER-ASUI: -- the witness
8 is referring to about signing Mr. Vargas off as
9 qualified to use the tire machine was produced?

10 CAPT. WIRTANEN: I received the
11 document yesterday afternoon. I can look at it to
12 determine that, but I don't have any outside
13 knowledge beyond what the document says.

14 MS. CARPENTER-ASUI: So you don't
15 know right now if that was produced or not?

16 CAPT. WIRTANEN: I answered your
17 question.

18 MS. CARPENTER-ASUI: Your review of
19 the documents, right now you don't know?

20 CAPT. WIRTANEN: I'm not being
21 deposed.

22 (Brief recess.)

23 BY MS. CARPENTER-ASUI:

24 Q. So did Mr. Vargas ever come to you after
25 you initially gave him some instruction on the tire

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1 machine and asked you other follow-up questions
2 about anything related to tire maintenance or work?

3 A. Yeah, he went see Randy and then Randy
4 came and asked me if I can help Mr. Vargas on the
5 grader tire. So I said yeah, okay, I went over
6 there, we had to change four tires on the grader.
7 And we did two. And then I told Mr. Vargas I ain't
8 coming to work tomorrow because I have a doctor
9 appointment, so I going tell Randy for tell Ace
10 send Ace in the tire shop to help you. And I guess
11 Ace did and then when I came back, Ace told me that
12 Mr. Vargas was pissed off at me, started swearing
13 and all that, saying that, you know, [inaudible] he
14 swore about me to Mr. Soares, cussing me out
15 about the tires.

16 I said hey, told Mr. Soares, I said hey,
17 that's good, tell you, but don't tell me that in my
18 face.

19 Q. And it was Ace that told you that
20 Mr. Vargas was pissed off?

21 A. Yeah. At me. Because I told Chris and
22 he probably misunderstand me, said I wasn't -- you
23 know, I told him I had doctor appointment the next
24 day. So. I believe what Mr. Soares said because
25 of that's how Mr. Vargas was. Just told Mr.

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1 Soares, I said good, he told you that, but he
2 didn't tell me that in my face.

3 Q. What do you mean, that's how Mr. Vargas
4 was? Did you ever hear him --

5 A. Well, when I see him, he looked mad or
6 angry working in the tire shop. Frustrated. You
7 know when you're frustrated you look like you
8 disappointed or you angry, you know.

9 Q. Did you ever hear him say I don't want to
10 be doing this job, my job is really painting?

11 A. Yeah. Because Mr. Nunes have him doing
12 tires, working on vehicles, painting, and he
13 complains about it. And I said hey, Chris, tell
14 Mr. Nunes, go up to classifications and let them
15 know that you're doing other jobs that's not
16 related to your PD. I said if you get hurt doing
17 other things that is not in your PD, you going to
18 be in trouble, they going to tell you why you
19 working on that. You got to turn around and said
20 Mr. Nunes, got 'em working as a mechanic, changing,
21 you know, whatever, working on vehicles, it's not
22 his job. He's actually a temporary painter,
23 permanent tire man. I don't know what he getting
24 paid now, if he is getting that painter pay or tire
25 pay, you know. I told him a couple times. Yeah,

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1 he complain about that, about jobs.

2 Q. Mr. Vargas complained?

3 A. Yeah. But I said hey, you got to put
4 your feet down, you got to tell Mr. Nunes, you
5 know.

6 Q. I don't understand what his complaint
7 was, that he was doing jobs outside of his position
8 description?

9 A. Outside of his position, right. Like
10 working on automotive vehicles, you know, scheduled
11 maintenance and all that, that's not related to his
12 job description, you know, his PD.

13 Q. What would he say exactly, do you
14 remember?

15 A. He got to do all kind job, Mr. Nunes got
16 him doing automotive work, you know, tires, and all
17 that, you know, painting, just like, you know, he's
18 the only one that got to work all around and --

19 Q. Would he swear when he was talking about
20 that?

21 A. No, just sound angry and upset. I never
22 hear him swear.

23 Q. Did you ever hear Mr. Vargas swearing in
24 the workplace?

25 A. Oh, yeah, everybody, everybody swears.

10 (Pages 34 to 37)